

April 28, 2021 - No. 35

April 28 - National Day of Mourning
**Criminal Failure to Guarantee the
Livelihoods of Workers Exposed or
Infected at Work**

- *Barbara Biley* -



- **Workers Comp Is a Right!** - *Christine Nugent*
- **Statement of the Nova Scotia Government and General Employees Union**

April 28 Day of Mourning

**Criminal Failure to Guarantee the Livelihoods of
Workers Exposed or Infected at Work**

- *Barbara Biley* -

Tens of thousands of workers in Canada and Quebec have contracted COVID-19 at their workplaces. More than 600 workers at the Amazon distribution centre in Peel Region, over 200 at the Gateway Postal Facility in Mississauga, and almost 1,000 workers at the Cargill meat processing plant in High River, Alberta have tested positive for COVID-19. There are currently outbreaks at 12 oilsands sites or camps in or near Ft. McMurray, with 738 active cases as of April 26. These are just four examples of hundreds of such outbreaks.

Workplace outbreak statistics do not include health care settings where outbreaks affect both workers and patients or residents of long-term care homes and other congregate living settings so do not properly reflect the number of workers infected at work.

To curb the spread of COVID-19, there are increasing demands from health care professionals that vaccinations should be prioritized for workers who cannot work from home and whose workplaces have remained operational, starting with those most affected. One of the reasons that governments have not made such decisions is that to do so would be to acknowledge that the government, which is in charge of vaccine delivery, has a responsibility to keep workers safe at work and to enforce laws and regulations that employers must follow to keep workplaces safe. It would mean deeds that match the fine words, "We've got your backs. Oh thank you, thank you essential workers" that are sounding more like mocking every day.



Adding insult to injury, there are widespread reports of workers being told by their employers not to file compensation claims but to instead apply for the federal government's Canada Emergency Response Benefit (CERB) or the Canada Recovery Sickness Benefit (CRSB), as well as of large numbers of compensation claims being denied. The rate of acceptance of COVID-19 claims varies from province to province, with a high of 95 per cent in Quebec and a low of 60 per cent in Manitoba. Many workers report that claims are ended if a worker who has had COVID-19 tests negative, even if they are still sick and their doctor verifies that they are ill and unable to work.

The *Globe and Mail* reported on April 13 that as of March 5, 2021 there had been more than 20,100 claims related to COVID-19 filed with Ontario's Workplace Safety and Insurance Board (WSIB) and that health services and long-term care accounted for 58 per cent, with agriculture, food processing, manufacturing and retail workers accounting for 25 per cent.[1] Data from Public Health Ontario reports nearly 1,900 outbreaks at workplaces in Ontario from March 2020 to March 5, 2021. These numbers of claims and exposure incident reports, according to union representatives, are far lower than the actual figures.



David Chezzi, a national representative for the Canadian Union of Public Employees (CUPE) and Chair of the Occupational Health Clinics for Ontario Workers Inc. was quoted in the *Globe and Mail* article as saying, "... Considering that workplaces accounted for as much as one-third of all outbreaks during the second wave in Ontario, the number of claims and exposure reports submitted to the WSIB should be much higher." For example, there have been over 900 cases at Amazon warehouses but not a single exposure incident report has been filed to the WSIB for Amazon. The *Globe and Mail* reports that as of April 12, according to WSIB data, there were fewer than five allowed claims and fewer than five rejected claims from Amazon workers. No

penalties have been assessed for Amazon and other employers who fail to meet their legal obligations to ensure that claims and exposure reports are filed.

According to Chezzi, "Tens to hundreds of thousands should have filed exposure claims. Why?"

Because it's potential exposure. You've got hundreds of employees in any given facility. Exposure rates should be through the roof, because anyone going to work where there is COVID, you have been exposed. If a student or co-worker goes to school with COVID, teachers have been exposed. Now multiply that by all the schools in the province. Think of all the paramedics, frontline nursing staff, custodians, grocery store clerks and people working in non-unionized environments."

British Columbia is the only province to have legislated presumptive coverage for COVID-19 which means that workers who contract COVID-19 are presumed to have contracted it on the job if they work in an essential industry or work in an environment which puts them at risk. In other provinces workers may have to prove that they were infected at work. Even with this, Worksafe BC reports that claims are disallowed where the person was exposed or required to isolate but ultimately tested negative, and the rate of rejection is close to 30 per cent.

The anti-social nature of the so-called compensation regimes are on full display in the situation where every day corners are cut on safety measures so that production rates don't suffer. With COVID-19, hundreds of thousands of workers are working in potentially life-threatening situations and employers are playing 'hot potato' with their lives. Workers are directed to apply for federal emergency sick benefits or CERB when they should be covered by compensation which in most cases would mean no interruption in earnings. It's a back-handed scheme to pay the rich through government payouts to workers that should come from employers. The federal and provincial governments are fully complicit in these schemes.

A modern human-centred society would recognize that all workers have the right to a livelihood and in emergency situations like the pandemic what is needed is a guarantee of workers' income when they are sick or forced to isolate or their workplace is shut down. No one should be left to fend for themselves.

Note

1. COVID-19 related claims statistics from WSIB as of April 16, 2021 showed 21,133 claims allowed (including 46 deaths up to March 31, 2021), 2,007 claims not allowed, 259 claims pending and 6,700 exposure incident reports received.



(Photos: WF, Power of Many, ONIWG)

Workers Comp Is a Right!

- Christine Nugent -



Christine Nugent is spokesperson for the Barrie District Injured Workers Group

The Ontario Network of Injured Workers Groups (ONIWG) has initiated campaigns based on many discussions among injured workers and their families on how to tackle the attacks in Ontario on their rights. The *Workers Comp Is a Right!* campaign was launched over three years ago and it deals with a couple of things that are really relevant today during the pandemic. One is the issue of deeming which is the practice of cutting injured workers and their families off of benefits because the Workplace Safety and Insurance Board (WSIB), which is mandated to provide no fault insurance for as long as an injury lasts, actually does not follow that mandate. They cut workers off, declare that they can return to work even when their medical practitioner says they are not fit to work. They use their own medical department to do this. We call them "paper doctors." Recently a member of the legislature from the NDP has put forward a private member's bill to end the practice. It has taken us a long time to get this far. Ontario injured workers have brought their concerns to the United Nations Committee on the Rights of Persons with Disabilities; that deeming is a violation of workers' rights.

As soon as the pandemic started many workers lost their jobs. Even under these conditions this practice of deeming didn't change. Injured workers were still being told that they had to go back to work, even at their own workplace which could have been contaminated, closed or unsafe. In many cases there wasn't work there for an injured worker to go to so deeming put them on a path of poverty, cut off benefits and forced onto social programs like Ontario Works and the Ontario Disability Support Program.

What is really important now is the issue of presumption. Under the pandemic if a worker contracts COVID-19 or if a family member gets COVID-19 passed on from a worker, then it must be presumed that this is an occupational disease and recognized as such. The firefighters fought for years on the issue of cancer. Now it is presumed to be an occupational disease. No one, especially essential workers, should have to prove that they got COVID-19 at their workplace -- but that is what is being done. Claims are treated on a case-by-case basis and there are thousands of them. And those are just the workers who know that they can and should file a claim. Thousands of workers who should be making claims are not. Employers have a legal responsibility to report and to inform workers of their rights. Employers' past practice of suppressing claims to avoid increases in premiums remains during the pandemic.

Because of the suppression and because we do not have an educated workforce on these matters, especially with 70 per cent of workers not unionized, thousands of workers are left to fend for themselves. Even in the unionized workplaces there is sometimes confusion about when a workplace has declared an outbreak because information is suppressed by employers who don't want to be shut down. When you have decision-making in the hands of the employers and government workers are not able to get their bearings.

Right now, in the Ontario legislature, besides the private member's bill on ending deeming, there are two others, one to guarantee essential workers have access to presumptive coverage for WSIB mental health benefits and another for WSIB coverage for workers in residential care facilities or group homes. Many of these workers, shockingly, are not covered by WSIB. Thirty percent of employers are exempt from WSIB in Ontario.

The actions of the Ford government ever since they were elected have been focused on making sure Ontario is "open for business." One of the first things they did was lower WSIB premiums for employers. Then, the following year, they lowered them again. We're talking about billions of dollars going back into the pockets of the companies. Bill 238, the *Workplace Safety and Insurance Amendment Act, 2021* just passed last week. It ensures the profits of the companies in Ontario, by once again restricting increases in premiums. So how does that affect injured workers or workers who have become ill from COVID-19? You can't continually give handouts to the employers and have a system that is going to serve the needs of injured workers and their families, and that's the purpose of compensation for the last hundred years. You can't sue your employer. It's no fault insurance guaranteed for as long as the injury lasts and that's the part that doesn't happen, through deeming.



I'll give one example. We had a big outbreak of one of the new variants of COVID-19 at a nursing home in Barrie with many deaths. Many workers, long-haulers, do not get well. If they test negative the WSIB returns them to work, even when their doctor says they are not fit to work. Benefits are cut. On presumption there has been a big fight in Ontario, for miners made ill with McIntyre Powder, for workers at GE in Peterborough, rubber workers and others. We say in those cases and in the pandemic every worker who gets sick should be compensated.

I also have to mention the precautionary principle. One of our members is a SARS nurse. She was injured in 2003 and has been ill and on compensation since then. She wants everyone to know that one of the strongest recommendations of the report on SARS was that the precautionary principle should be followed so, for instance, if there is a possibility that the disease is airborne then protect the workers accordingly with N95 masks. Since the beginning of the pandemic the precautionary principle has not been followed.

(Photos: WF, Injured Workers Online)

Statement of the Nova Scotia Government and General Employees Union

The following statement was sent to Workers' Forum by Sandra Mullen on behalf of herself and NSGEU President Jason Maclean.

On the upcoming annual Day of Mourning, we are and continue to be in the biggest fight for safety of our over 30,000 members here in the province of Nova Scotia. As we reflect on the past year and

the situation that we are facing in the recovery from this pandemic this is our mission:

To address the safety concerns of all frontline workers, we must first ensure all workplaces have strong, functioning joint occupational health and safety committees, as outlined under the provincial *Occupational Health and Safety Act*. These committees must meet regularly to ensure staff and management are aware of potential hazards and safety issues in the workplace, so they may work proactively to get the proper policies, procedures and equipment -- including Personal Protective Equipment -- in all workplaces.

(To access articles individually click on the black headline.)

PDF

PREVIOUS ISSUES | HOME

Website: www.cpcml.ca Email: office@cpcml.ca